



House of Representatives

File No. 470

General Assembly

February Session, 2000

(Reprint of File No. 155)

Substitute House Bill No. 5884
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 7, 2000

An Act Concerning Powers And Duties Of The Treasurer And The Investment Advisory Council.

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 3-13b of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) There is created an Investment Advisory Council which shall
4 consist of the following: (1) The Secretary of the Office of Policy and
5 Management who shall serve as an ex-officio member of said council;
6 (2) the State Treasurer who shall serve as an ex-officio member of said
7 council; (3) five public members all of whom shall be experienced in
8 matters relating to investments. The Governor, the president pro
9 tempore of the Senate, the Senate minority leader, the speaker of the
10 House of Representatives and the minority leader of the House of
11 Representatives shall each appoint one such public member to serve
12 for a term of four years. No such public member or such member's
13 business organization or affiliate shall directly or indirectly contract
14 with or provide any services for the investment of trust funds of the
15 state of Connecticut during the time of such member's service on said

16 council and for one year thereafter. The term of each public member in
17 office on June 30, 1983, shall end on July 1, 1983. The appointing
18 authority shall fill all vacancies of the public members; (4) three
19 representatives of the teachers' unions, and two representatives of the
20 state employees' unions. On or before July 15, 1983, the teachers'
21 unions shall jointly submit to the State Treasurer a list of three
22 nominees, and the state employees' unions or a majority thereof who
23 represent a majority of state employees shall jointly submit to the
24 Treasurer a list of two nominees. On or before July 30, 1983, the
25 Governor shall appoint five members of the council from such lists, for
26 terms of two years. Any person appointed to fill a vacancy or to be a
27 new member at the expiration of a given term, whose predecessor in
28 that position was either a representative of one of the teachers' unions
29 or one of the state employees' unions, shall also be a representative of
30 such respective union group. Any such appointee shall be appointed
31 by the Governor from a list of nominees submitted to the Treasurer by
32 the teachers' unions or state employees' unions or such majority
33 thereof, as the case may be, within thirty days of notification by the
34 Treasurer of the existence of a vacancy or a prospective vacancy, or the
35 expiration or prospective expiration of a term. All members of the
36 council shall serve until their respective successors are appointed and
37 have qualified. No public member of the council shall serve more than
38 two consecutive terms which commence on or after July 1, 1983.

39 (b) The Governor shall designate one of the members to be
40 chairperson of the council to serve as such at [his] the Governor's
41 pleasure. The Treasurer shall serve as secretary of said council. A
42 majority of the members of the council then in office will constitute a
43 quorum for the transaction of any business, and action shall be by the
44 vote of a majority of the members present at a meeting. Votes by
45 members on investment policies shall be recorded in the minutes of
46 each meeting. Members of said council shall not be compensated for
47 their services but shall be reimbursed for all necessary expenses
48 incurred in the performance of their duties as members of said council.
49 The council shall meet at least once during each calendar quarter and

50 at such other times as the chairperson deems necessary or upon the
51 request of a majority of the members in office. Special meetings shall
52 be held at the request of such majority after notice in accordance with
53 the provisions of section 1-225, as amended. Any member who fails to
54 attend three consecutive meetings or who fails to attend fifty per cent
55 of all meetings held during any calendar year shall be deemed to have
56 resigned from office.

57 (c) (1) The Treasurer shall recommend to the Investment Advisory
58 Council an Investment Policy Statement which shall set forth the
59 standards governing investment of trust funds by the Treasurer. Such
60 statement shall include, with respect to each trust fund, without
61 limitation, (A) investment objectives; (B) asset allocation policy and
62 risk tolerance; (C) asset class definitions, including specific types of
63 permissible investments within each asset class and any specific
64 limitations or other considerations governing the investment of any
65 funds; (D) investment manager guidelines; (E) investment
66 performance evaluation guidelines; (F) guidelines for the selection and
67 termination of providers of investment related services who shall
68 include, but not be limited to, investment advisors, external money
69 managers, investment consultants, custodians, broker-dealers, legal
70 counsel, and similar investment industry professionals; and (G) proxy
71 voting guidelines. A draft of the statement shall be submitted to the
72 Investment Advisory Council at a meeting of said council and shall be
73 made available to the public. Notice of such availability shall be
74 published in at least one newspaper having a general circulation in
75 each municipality in the state which publication shall be not less than
76 two weeks prior to such meeting. Said council shall review the draft
77 statement and shall publish any recommendations it may have for
78 changes to such statement in the manner provided for publication of
79 the statement by the Treasurer. The Treasurer shall thereafter adopt
80 the statement, including any such changes the Treasurer deems
81 appropriate, with the approval of a majority of the members appointed
82 to said council. If a majority of the members appointed to said council
83 fail to approve such statement, said majority shall provide the reasons

84 for its failure to approve to the Treasurer who may submit an
85 amended proposed statement at a subsequent regular or special
86 meeting of said council. Such revised proposed statement shall be
87 made available to the public in accordance with the provisions of the
88 Freedom of Information Act, as defined in section 1-200. Any revisions
89 or additions to the Investment Policy Statement shall be made in
90 accordance with the procedures set forth in this subdivision for the
91 adoption of the statement. The Treasurer shall annually review the
92 Investment Policy Statement and shall consult with the Investment
93 Advisory Council regarding possible revisions to such statement.

94 [(c)] (2) All trust fund investments by the State Treasurer shall be
95 reviewed by said Investment Advisory Council. [The council shall
96 recommend to the State Treasurer investment policies consistent with
97 the law pertaining to the kind or nature of investment, including
98 limitations, conditions or restrictions upon the methods, practices or
99 procedures for investment, reinvestment, purchase, sale or exchange
100 transactions.] The Treasurer shall provide to the council all
101 information regarding such investments which the Treasurer deems
102 relevant to the council's review and such other information as may be
103 requested by the council. The Treasurer shall provide a report at each
104 regularly scheduled meeting of the Investment Advisory Council as to
105 the status of the trust funds and any significant changes which may
106 have occurred or which may be pending with regard to the funds. The
107 council shall promptly notify the Auditors of Public Accounts and the
108 Comptroller of any unauthorized, illegal, irregular or unsafe handling
109 or expenditure of trust funds or breakdowns in the safekeeping of trust
110 funds or contemplated action to do the same within their knowledge.
111 The Governor may direct the Treasurer to change any investments
112 made by the Treasurer when in the judgment of said council such
113 action is for the best interest of the state. Said council shall, at the close
114 of the fiscal year, make a complete examination of the security
115 investments of the state and determine as of June thirtieth, the value of
116 such investments in the custody of the Treasurer and report thereon to
117 the Governor, the General Assembly and beneficiaries of trust funds

118 administered, held or invested by the Treasurer. With the approval of
119 the Treasurer and the council, said report may be included in the
120 Treasurer's annual report. [The provisions of this section shall apply to
121 all investments made by the Treasurer for both trust and civil list
122 funds.]

123 (d) The Investment Advisory Council shall be within the office of
124 the State Treasurer for administrative purposes only.

125 (e) For the purposes of this section, "teachers' union" means a
126 representative organization for certified professional employees, as
127 defined in section 10-153b, and "state employees' union" means an
128 organization certified to represent state employees, pursuant to section
129 5-275.

130 Sec. 2. Subsection (a) of section 3-13d of the general statutes is
131 repealed and the following is substituted in lieu thereof:

132 (a) Notwithstanding any other provision in the general statutes or
133 elsewhere to the contrary, the Treasurer shall invest as much of the
134 state's trust funds as are not required for current disbursements in
135 accordance with the provisions of section 45a-203 or the provisions of
136 this part. [Notwithstanding the provisions of this section or any other
137 provision in the general statutes or elsewhere to the contrary, the
138 Treasurer shall not invest more than fifty-five per cent of the market
139 value of each such trust fund in common stock, except in the event of a
140 stock market fluctuation that causes the common stock percentage to
141 increase and the Treasurer deems it in the best interest of such trust
142 fund to maintain a higher percentage of equities, provided the
143 Treasurer shall not allow the market value of each such trust fund in
144 common stock to exceed fifty-five per cent for more than six months
145 after such fluctuation occurs. Investments in real estate investment
146 trusts (REITS) shall be considered alternative investments and not
147 common stock investments under this section.] On and after January 1,
148 2001, or on and after the first adoption of an Investment Policy
149 Statement under section 3-13b, as amended by this act, whichever is

150 later, all trust fund investments shall be made in accordance with the
151 Investment Policy Statement adopted under section 3-13b, as amended
152 by this act. In order to increase the income for each such combined
153 investment fund established pursuant to section 3-31b, the Treasurer
154 may enter into repurchase agreements or lend securities from each
155 such fund, provided that at the time of the execution of the repurchase
156 agreement or the loan at least one hundred per cent of the market
157 value of the security sold or lent shall be received as consideration in
158 the form of cash or securities guaranteed by the United States
159 government or any agency of the United States government in the case
160 of a repurchase agreement or secured by cash or such securities in the
161 case of a loan. At all times during the term of each such repurchase
162 agreement or the term of each such loan the consideration received or
163 the collateral shall be equal to not less than ninety-five per cent of the
164 full market value of the security and said consideration received or
165 said collateral shall not be more than one hundred thousand dollars
166 less than the full market value of the security. The Treasurer may sell
167 call options which would give the holders of such options the right to
168 purchase securities held by the Treasurer at the date the call is sold for
169 investment purposes, under such terms and conditions as the
170 Treasurer may determine. Among the factors to be considered by the
171 Treasurer with respect to all securities may be the social, economic and
172 environmental implications of investments of trust funds in particular
173 securities or types of securities. In the investment of the state's trust
174 funds the Treasurer shall consider the implications of any particular
175 investment in relation to the foreign policy and national interests of the
176 United States.

177 Sec. 3. (NEW) On and after January 1, 2001, or on and after the first
178 adoption of an Investment Policy Statement under section 3-13b of the
179 general statutes, as amended by this act, whichever is later, any
180 contract for services related to the investment of trust funds, as defined
181 in section 3-13c of the general statutes, shall be subject to the
182 Investment Policy Statement adopted under section 3-13b of the
183 general statutes, as amended by this act. No contract for services

184 related to the investment of such funds shall be awarded to a provider
185 of such services until the Treasurer's recommendation of a provider is
186 reviewed by the Investment Advisory Council. The Treasurer shall
187 provide notice of such recommendation at a meeting of the council.
188 Not later than forty-five days after such meeting, the council may file a
189 written review of the Treasurer's recommendation concerning the
190 selection of such provider with the Office of the Treasurer where it
191 shall be available for public inspection. The Treasurer may proceed to
192 award the contract after such forty-five day period.

193 Sec. 4. Section 3-13d of the general statutes is amended by adding
194 subsection (e) as follows:

195 (NEW) (e) Notwithstanding any provision of the general statutes,
196 neither the Treasurer, the Deputy Treasurer nor any acting Treasurer
197 shall make a private equity or real estate investment without the
198 approval of the Investment Advisory Council, for the balance of the
199 Treasurer's term of office, on or after any of the following events: (1)
200 The defeat of the Treasurer (A) in a ballot for the party nomination for
201 Treasurer at a convention where said Treasurer was a candidate for
202 nomination, (B) in a primary for nomination for said office where said
203 Treasurer was a candidate for nomination, or (C) upon the completion
204 of a recanvass of the returns from such primary under section 9-445 or
205 9-446, whichever is later, (2) the defeat of the Treasurer (A) in the
206 election for said office or (B) upon the completion of a recanvass of the
207 returns from such election under section 9-311, 9-311a or 9-311b, or (3)
208 the resignation of the Treasurer.

209 Sec. 5. (NEW) (a) Prior to the Treasurer entering into a contract for
210 investment services, as defined in section 9-333n of the general
211 statutes, any person or entity who would be a party to that contract
212 shall disclose to the Treasurer, in writing, all third party fees
213 attributable to such contract. Such disclosure shall be made by firms
214 providing such services and shall be in a sworn affidavit in a manner
215 and form prescribed in regulations which shall be adopted by the
216 Treasurer, in accordance with the provisions of chapter 54 of the

217 general statutes, not later than three months after the effective date of
218 this section. Information disclosed under this subsection shall be made
219 available for public inspection in accordance with the Freedom of
220 Information Act, as defined in section 1-200 of the general statutes.

221 (b) Prior to any quasi-public agency, as defined in section 1-120 of
222 the general statutes, entering into a contract for investment services, as
223 defined in section 9-333n of the general statutes, any person or entity
224 who would be a party to that contract shall disclose to the quasi-public
225 agency entering into the contract, in writing, all third party fees
226 attributable to such contract. Such disclosure shall be made by firms
227 providing such services and shall be in a sworn affidavit in a manner
228 and form as prescribed in procedures which shall be adopted by each
229 such agency, in accordance with the provisions of chapter 12 of the
230 general statutes, not later than three months after the effective date of
231 this section. Information disclosed under this subsection shall be made
232 available for public inspection in accordance with the Freedom of
233 Information Act, as defined in section 1-200 of the general statutes.

234 (c) For purposes of this section and section 6 of this act, "third party
235 fees" includes, but is not limited to, management fees, placement agent
236 fees, solicitation fees, referral fees, promotion fees, introduction or
237 matchmaker fees, and due diligence fees.

238 (d) Any person who violates any provision of this section shall be
239 liable for a civil penalty not to exceed two thousand dollars for each
240 violation.

241 (1) The Attorney General, upon complaint of the Treasurer, may
242 bring an action in the superior court for the judicial district of Hartford
243 to recover such penalty for a violation of this section which affects a
244 fund of the state. Any penalty imposed under this section for a
245 violation which affects any such fund shall be paid to the Treasurer
246 who shall deposit such moneys in such fund.

247 (2) Any quasi-public agency, as defined in section 1-120 of the
248 general statutes, may bring an action in the superior court to recover

249 such penalty for a violation of this section which affects any fund
250 under the control of such agency. Any penalty imposed under this
251 section for a violation which affects any such fund shall be paid to such
252 agency which shall deposit such moneys in such fund.

253 Sec. 6. (NEW) (a) The Treasurer shall not direct the payment of any
254 third party fees to any person other than third party fees paid in
255 connection with state bond sales or fees permitted by the Internal
256 Revenue Code in connection with guaranteed investment contracts
257 related to debt issuance.

258 (b) Neither the Treasurer, nor any agent or employee of the
259 Treasurer, shall make personal use of any credit or thing of value given
260 by a broker or firm in connection with the investment of trust funds.

261 Sec. 7. (NEW) (a) No person may, directly or indirectly, pay a
262 finder's fee to any person in connection with any investment
263 transaction involving the state, any quasi-public agency, as defined in
264 section 1-120 of the general statutes, or any political subdivision of the
265 state. No person may, directly or indirectly, receive a finder's fee in
266 connection with any investment transaction involving the state, any
267 quasi-public agency, as defined in section 1-120 of the general statutes,
268 or any political subdivision of the state.

269 (b) For purposes of this section:

270 (1) "Finder's fee" means compensation in the form of cash, cash
271 equivalents or other things of value paid or received in connection
272 with an investment transaction to which the state, any political
273 subdivision of the state or any quasi-public agency, as defined in
274 section 1-120 of the general statutes, is a party for any services, and
275 includes, but is not limited to, any fee paid for lobbying, as defined in
276 subsection (k) of section 1-91 of the general statutes.

277 (2) "Finder's fee" does not mean compensation (A) (i) earned for the
278 rendering of investment services as defined in subsection (f) of section
279 9-333n of the general statutes, or for acting as a real estate broker or

280 real estate sales person under the provisions of section 20-312 of the
281 general statutes, or (ii) marketing fees or due diligence fees earned by
282 the payee in connection with the offer, sale or purchase of any security
283 or investment interest, as defined in regulations which shall be
284 adopted by the Treasurer in accordance with the provisions of chapter
285 54 of the general statutes, and (B) paid to persons who are investment
286 professionals engaged in the ongoing business of representing
287 investment managers.

288 (3) "Investment professional" means an individual or firm whose
289 primary business is bringing together institutional funds and
290 investment opportunities and who (A) is a broker-dealer or investment
291 advisor licensed or registered (i) under the Connecticut Uniform
292 Securities Act; (ii) with the Securities and Exchange Commission, in
293 accordance with the Investment Advisors' Act of 1940 or the Securities
294 Exchange Act of 1934; or (iii) with the National Association of
295 Securities Dealers in accordance with the Securities Exchange Act of
296 1934, or (B) (i) furnishes an investment manager with marketing
297 services including, but not limited to, developing an overall marketing
298 strategy focusing on more than one institutional fund, designing or
299 publishing marketing brochures or other presentation material such as
300 logos and brands for investment products, responding to requests for
301 proposals, completing due diligence questionnaires, identifying a
302 range of potential investors, or such other services as may be identified
303 in regulations adopted by the Treasurer, in accordance with the
304 provisions of chapter 54 of the general statutes, and (ii) has contacts
305 regarding potential investments with more than ten institutional funds
306 in the preceding twelve months or was involved in more than one
307 transaction in the preceding twelve months or (C) is licensed under
308 section 20-312 of the general statutes.

309 (c) Any person who violates any provision of this section shall be
310 liable for a civil penalty of not less than the amount of the fee paid or
311 received in violation of this section and not more than three times said
312 amount.

313 (1) The Attorney General, upon complaint of the Treasurer, may
314 bring an action in the superior court for the judicial district of Hartford
315 to recover such penalty for a violation of this section which affects a
316 fund of the state. Any penalty imposed under this section for a
317 violation which affects any such fund shall be paid to the Treasurer
318 who shall deposit such moneys in such fund.

319 (2) Any political subdivision of the state may bring an action in the
320 superior court to recover such penalty for a violation of this section
321 which affects any fund under the control of such subdivision. Any
322 penalty imposed under this section for a violation which affects any
323 such fund shall be paid to such subdivision which shall deposit such
324 moneys in such fund.

325 (3) Any quasi-public agency, as defined in section 1-120 of the
326 general statutes, may bring an action in the superior court to recover
327 such penalty for a violation of this section which affects any fund
328 under the control of such agency. Any penalty imposed under this
329 section for a violation which affects any such fund shall be paid to such
330 agency which shall deposit such moneys in such fund.

331 Sec. 8. Section 1-89 of the general statutes is amended by adding
332 subsection (d) as follows:

333 (NEW) (d) Any fines, penalties or damages paid, collected or
334 recovered under section 1-88 or this section for a violation of any
335 provision of this part applying to the office of the Treasurer shall be
336 deposited on a pro rata basis in any trust funds, as defined in section 3-
337 13c, as amended, affected by such violation.

338 Sec. 9. Section 1-100 of the general statutes is repealed and the
339 following is substituted in lieu thereof:

340 (a) Any person who intentionally violates any provision of this part
341 shall be imprisoned for a term not to exceed one year or shall be fined
342 an amount not to exceed two thousand dollars, or both.

343 (b) Any fines, penalties or damages paid, collected or recovered
344 under section 1-99 or this section for a violation of any provision of this
345 part applying to the office of the Treasurer shall be deposited on a pro
346 rata basis in any trust funds, as defined in section 3-13c, as amended,
347 affected by such violation.

348 Sec. 10. Subdivision (2) of section 9-7b of the general statutes is
349 repealed and the following is substituted in lieu thereof:

350 (2) To levy a civil penalty not to exceed (A) two thousand dollars
351 per offense against any person the commission finds to be in violation
352 of any provision of chapter 145, part V of chapter 146, part I of chapter
353 147, chapter 148, section 9-12, subsection (a) of section 9-17, section 9-
354 19b, 9-19e, 9-19g, 9-19h, 9-19i, 9-20, 9-21, 9-23a, 9-23g, 9-23h, 9-23j to 9-
355 23o, inclusive, 9-26, 9-31a, 9-32, 9-35, 9-35b, 9-35c, 9-40a, 9-42, 9-43, 9-
356 50a, 9-56, 9-59, 9-168d, 9-170, 9-171, 9-172, 9-409, 9-410, 9-412, 9-436, 9-
357 436a, 9-453e to 9-453h, inclusive, 9-453k or 9-453o, or (B) two thousand
358 dollars per offense or twice the amount of any improper payment or
359 contribution, whichever is greater, against any person the commission
360 finds to be in violation of any provision of chapter 150. The
361 commission may levy a civil penalty against any person under
362 subparagraph (A) or (B) of this subdivision only after giving the
363 person an opportunity to be heard at a hearing conducted in
364 accordance with sections 4-176e to 4-184, inclusive. In the case of
365 failure to pay any such penalty levied pursuant to this subsection
366 within thirty days of written notice sent by certified or registered mail
367 to such person, the superior court for the judicial district of Hartford,
368 on application of the commission, may issue an order requiring such
369 person to pay the penalty imposed and such court costs, sheriff's fees
370 and attorney's fees incurred by the commission as the court may
371 determine. Any civil penalties paid, collected or recovered under
372 subparagraph (B) of this subdivision for a violation of any provision of
373 chapter 150 applying to the office of the Treasurer shall be deposited
374 on a pro rata basis in any trust funds, as defined in section 3-13c, as
375 amended, affected by such violation.

376 Sec. 11. Subsection (a) of section 9-333y of the general statutes is
377 repealed and the following is substituted in lieu thereof:

378 (a) Any person who knowingly and wilfully violates any provision
379 of this chapter shall be fined not more than five thousand dollars or
380 imprisoned not more than five years or both. The Secretary of the State
381 or the town clerk shall notify the State Elections Enforcement
382 Commission of any such violation of which said secretary or such
383 town clerk may have knowledge. Any such fine for a violation of any
384 provision of this chapter applying to the office of the Treasurer shall be
385 deposited on a pro rata basis in any trust funds, as defined in section 3-
386 13c, as amended, affected by such violation.

387 Sec. 12. Subsection (b) of section 2-90 of the general statutes is
388 repealed and the following is substituted in lieu thereof:

389 (b) Said auditors, with the Comptroller, shall, at least annually and
390 as frequently as they deem necessary, audit the books and accounts of
391 the Treasurer, including, but not limited to, trust funds, as defined in
392 section 3-13c, as amended, and certify the results to the Governor. The
393 auditors shall, at least annually and as frequently as they deem
394 necessary, audit the books and accounts of the Comptroller and certify
395 the results to the Governor. They shall examine and prepare
396 certificates of audit with respect to the financial statements contained
397 in the annual reports of the Treasurer and Comptroller, which
398 certificates shall be made part of such annual reports. In carrying out
399 their responsibilities under this section, said auditors may retain
400 independent auditors to assist them.

401 Sec. 13. Section 3-13a of the general statutes is repealed and the
402 following is substituted in lieu thereof:

403 (a) The Treasurer shall, with the advice and consent of the
404 Investment Advisory Council, appoint [an assistant treasurer for
405 investments] a chief investment officer for the Connecticut retirement
406 pension and trust funds, who shall serve at the pleasure of the
407 Treasurer and whose compensation shall be determined by the

408 Treasurer within a salary range established by the Treasurer in
409 consultation with the Investment Advisory Council. The provisions of
410 section 4-40 shall not apply to the compensation of said officer. [Such
411 assistant] Said officer shall be sworn to the faithful discharge of [his]
412 duties under law. [He] Said officer shall, under the direction of the
413 Treasurer and subject to the provisions of sections 3-13 to 3-13d,
414 inclusive, and 3-31b, advise the Treasurer on investing the trust funds
415 of the state. [He] Said officer shall also perform such other duties as the
416 Treasurer may direct. In addition to [such assistant treasurer] said
417 officer, the Treasurer may [, with the advice and consent of the
418 Investment Advisory Council,] appoint investment officers and other
419 personnel [,] to assist said [assistant treasurer] chief investment officer,
420 which officers and other personnel shall serve at the pleasure of the
421 Treasurer.

422 (b) The Treasurer may retain professional investment counsel to
423 evaluate and recommend to [him] to the Treasurer changes in the
424 portfolio of the state's trust and other funds. Said counsel shall inform
425 the Treasurer of suitable investment opportunities and shall
426 investigate the investment merit of any security or group of securities.

427 (c) The cost of operating the investment department including the
428 cost of personnel and professional investment counsel retained under
429 sections 3-13 to 3-13d, inclusive, and 3-31b shall be paid by the
430 Treasurer charging the income derived from the trust funds.

431 Sec. 14. Section 9-213 of the general statutes is repealed and the
432 following is substituted in lieu thereof:

433 (a) If the office of Secretary of the State [, Treasurer] or Comptroller
434 becomes vacant, the General Assembly, if in session, shall fill it; but, if
435 the vacancy occurs when the General Assembly is not in session or if
436 the General Assembly fails to make an appointment to fill the vacancy,
437 it shall be filled by the Governor.

438 (b) Any vacancy in the office of Attorney General shall be filled by
439 appointment by the Governor for the unexpired portion of the term.

440 (c) (1) If the office of the Treasurer becomes vacant, the General
441 Assembly, if in session, shall fill the vacancy for the unexpired portion
442 of the term. (2) If the vacancy occurs when the General Assembly is not
443 in session, or if the General Assembly fails to make an appointment to
444 fill the vacancy and the vacancy does not occur in the year in which a
445 state election is to be held for the office of the Treasurer, the Governor
446 shall appoint a person to serve as acting Treasurer until the next
447 regular session of the General Assembly at which time the Governor
448 shall nominate a successor for the office of Treasurer who shall be
449 subject to approval by the General Assembly. (3) If the vacancy occurs
450 when the General Assembly is not in session or if the General
451 Assembly fails to make an appointment to fill the vacancy and the
452 vacancy occurs in the year in which a state election is to be held for the
453 office of the Treasurer, the Deputy Treasurer shall fill the vacancy for
454 the unexpired portion of the term.

455 Sec. 15. Section 1-84b of the general statutes is amended by adding
456 subsection (j) as follows:

457 (NEW) (j) No Treasurer who authorizes, negotiates or renegotiates a
458 contract for investment services valued at an amount of fifty thousand
459 dollars or more shall negotiate for, seek or accept employment with a
460 party to the contract prior to one year after the end of the Treasurer's
461 term of office within which such contract for investment services was
462 authorized, negotiated or renegotiated by such Treasurer.

463 Sec. 16. Subsection (k) of section 1-79 of the general statutes, as
464 amended by public act 99-56, is repealed and the following is
465 substituted in lieu thereof:

466 (k) "Public official" means any state-wide elected officer, any
467 member or member-elect of the General Assembly, any person
468 appointed to any office of the legislative, judicial or executive branch
469 of state government by the Governor or an appointee of the Governor,
470 with or without the advice and consent of the General Assembly, any
471 public member or representative of the teachers' unions or state

472 employees' unions appointed to the Investment Advisory Council
473 pursuant to subsection (a) of section 3-13b, as amended by this act, any
474 sheriff or deputy sheriff, any person appointed or elected by the
475 General Assembly or by any member of either house thereof, and any
476 member or director of a quasi-public agency, but shall not include a
477 member of an advisory board, a judge of any court either elected or
478 appointed or a senator or representative in Congress.

479 Sec. 17. Subsection (a) of section 1-83 of the general statutes is
480 repealed and the following is substituted in lieu thereof:

481 (a) (1) All state-wide elected officers, members of the General
482 Assembly, department heads and their deputies, members of the
483 Gaming Policy Board, the executive director of the Division of Special
484 Revenue within the Department of Revenue Services, members or
485 directors of each quasi-public agency, members of the Investment
486 Advisory Council, sheriffs and deputy sheriffs and such members of
487 the Executive Department and such employees of quasi-public
488 agencies as the Governor shall require, shall file, under penalty of false
489 statement, a statement of financial interests for the preceding calendar
490 year with the commission on or before the May first next in any year in
491 which they hold such a position. Any such individual who leaves his
492 or her office or position shall file a statement of financial interests
493 covering that portion of the year during which [he] such individual
494 held his or her office or position. The commission shall notify such
495 individuals of the requirements of this subsection within thirty days
496 after their departure from such office or position. Such individuals
497 shall file such statement within sixty days after receipt of the
498 notification.

499 (2) Each state agency, department, board and commission shall
500 develop and implement, in cooperation with the Ethics Commission,
501 an ethics statement as it relates to the mission of the agency,
502 department, board or commission. The executive head of each such
503 agency, department, board or commission shall be directly responsible
504 for the development and enforcement of such ethics statement and

505 shall file a copy of such ethics statement with the Department of
506 Administrative Services and the Ethics Commission.

507 Sec. 18. Subsection (f) of section 9-333n of the general statutes is
508 repealed and the following is substituted in lieu thereof:

509 (f) (1) As used in this subsection, "investment services" means legal
510 services, investment banking services, investment advisory services,
511 underwriting services, financial advisory services or brokerage firm
512 services.

513 (2) No individual who is an owner of a firm which provides
514 investment services and to which the Treasurer pays compensation,
515 expenses or fees or issues a contract, and no individual who is
516 employed by such a firm as a manager, officer, director, partner or
517 employee with managerial or discretionary responsibilities to invest,
518 manage funds or provide investment services for brokerage,
519 underwriting and financial advisory activities which are in the
520 statutory and constitutional purview of the Treasurer, shall make a
521 contribution on or after October 1, 1995, to, or solicit contributions on
522 or after said date on behalf of, an exploratory committee or candidate
523 committee established by a candidate for nomination or election to the
524 office of Treasurer during the term of office of the Treasurer which
525 pays compensation, expenses or fees or issues a contract to such firm.

526 (3) Neither the Treasurer, any candidate for the office of Treasurer
527 nor any member of the Investment Advisory Council established
528 under section 3-13b, as amended by this act, may solicit contributions
529 on behalf of an exploratory committee or candidate committee
530 established by a candidate for nomination or election to any public
531 office, from any individual who is an owner of a firm which provides
532 investment services and to which the Treasurer pays compensation,
533 expenses or fees or issues a contract, or from any individual who is
534 employed by such a firm as a manager, officer, director, partner or
535 employee with managerial or discretionary responsibilities to invest,
536 manage funds or provide investment services for brokerage,

537 underwriting and financial advisory activities which are in the
538 statutory and constitutional purview of the Treasurer.

539 (4) No member of the Investment Advisory Council appointed
540 under section 3-13b, as amended by this act, shall make a contribution
541 to, or solicit contributions on behalf of, an exploratory committee or
542 candidate committee established by a candidate for nomination or
543 election to the office of Treasurer.

544 Sec. 19. This act shall take effect from its passage, except that section
545 2 shall take effect January 1, 2001.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: See Explanation Below

Affected Agencies: Office of the State Treasurer, Department of Banking, Auditors of Public Accounts, State Ethics Commission, State Elections Enforcement Commission

Municipal Impact: Potential Minimal Revenue Gain

Explanation

State Impact:

The Office of the State Treasurer will require 2 positions funded by the Combined Investment Fund (CIF) and 1 position funded by the General Fund, to implement the provisions of the bill. The 2 positions funded by the CIF are for a chief investment officer (\$150,000 per year plus fringe benefits) and a principal investment analyst (\$85,000 per year plus fringe benefits.) The position funded by the General Fund is for a compliance officer (\$67,000 per year plus fringe benefits.)

A minimal revenue gain (less than \$10,000) is anticipated from civil penalties for violating the third-party disclosure requirements and the finder's fee ban because it is expected that few penalties will be imposed. The bill specifies that penalties for violations associated with the CIF be deposited into the CIF.

The cost to the Auditors of Public Accounts for retaining independent auditors to assist them in auditing the CIF is estimated to be \$40,000.

Removing the 55% cap on the maximum amount of CIF money that can be invested in stock could increase the annual rate of return on pension funds, depending on the performance of stock versus non-stock investments. The information below, taken from the FY 99 Annual Report of the State Treasurer, shows the rate of return over 3, 5 and 10-year periods for each asset class of the Combined Investment Fund:

Asset Class	% Total Fund (6/30/99)	Annualized Rate of Return		
		3 Yr.	5 Yr.	10 Yr.
Total Fund	100.0%	15.62%	14.88%	11.13%
US Stocks – Mutual Equity Fund	46.0%	26.08%	25.08%	16.91%
US Fixed Income – Mutual Fixed Income Fund	31.1%	7.86%	8.48%	9.05%
International Stocks – International Stock Fund	12.5%	7.83%	7.62%	7.66%
Alternative Assets – Private Investment Fund	6.0%	7.52%	17.02%	7.52%
Equity Commercial Real Estate – Real Estate Fund	2.2%	15.21%	8.43%	1.51%
US Fixed Income – Commercial Mortgage Fund	1.2%	11.11%	11.01%	9.11%
Cash – Cash Reserve Account	1.0%	5.67%	5.75%	5.94%

To the extent that a higher rate of return on CIF investments is achieved due to removal of the cap on stocks, the level of contributions from all appropriated funds may decrease.

House “A” changes the fine for violating the finder’s fee ban from up to \$10,000 to not less than the amount of the fee and not more than three times the fee. This is not anticipated to have a significant fiscal impact.

House “A” requires penalties for violations of the third-party disclosure requirements and the finder’s fee ban associated with funds under the control of a quasi-public agency be paid to those funds. This may result in a very minimal revenue gain to the funds.

The other provisions in House “A” are not expected to have a significant fiscal impact.

Municipal Impact:

House “A” requires penalties for violations of the third-party disclosure requirements and the finder’s fee ban associated with funds under the control of a political subdivision (municipality) be paid to those funds. This may result in a very minimal revenue gain to the funds.

OLR Amended Bill Analysis

sHB 5884 (as amended by House "A")

**AN ACT CONCERNING THE AUTHORITY OF THE TREASURER
REGARDING INVESTMENT OF STATE TRUST FUNDS.****SUMMARY:**

This bill:

1. prohibits the state treasurer from negotiating for, seeking, or accepting a job with any party to an investment services contract valued at \$50,000 or more that she authorized, negotiated, or renegotiated for one year after her term ends;
2. prohibits the treasurer, candidates for treasurer, and members of the Investment Advisory Council (IAC) from soliciting campaign contributions from owners and employees of investment services firms that the treasurer pays or issues contracts to;
3. prohibits the appointed members of the IAC (the 10 union and public members) from making campaign contributions to or soliciting contributions for a candidate for treasurer; and
4. subjects the IAC's appointed members to the State Ethics Code and requires all IAC members to file annual financial disclosure statements with the State Ethics Commission.

The bill requires the treasurer, with the IAC's approval, to adopt a policy for investing state retirement and benefit funds (trust funds). It enhances the IAC's authority to review investments and investment services contracts and requires IAC approval for certain investments by lame-duck or acting treasurers.

The bill requires the treasurer, with the IAC's approval, to appoint a chief investment officer for the Connecticut retirement, pension and

trust funds and set his compensation. This officer replaces the assistant treasurer for investments.

The bill restricts the governor's power to appoint someone to fill a vacancy in the Office of Treasurer when the General Assembly is not in session. It also requires the deputy treasurer to fill out any vacancy that occurs in a year when a regular election for treasurer is scheduled.

The bill requires prior disclosure of third-party fees the treasurer and quasi-public agencies pay in connection with securities investment contracts, and it bars the treasurer, her agents, and employees from directing the payment of third-party fees or making personal use of credits or other valuable items given by a broker or firm in connection with trust fund investments.

It also bans anyone from paying or receiving "finder's fees," including lobbying fees, in connection with any transaction involving the state, a quasi-public agency, or a political subdivision. The ban does not apply to compensation paid to investment professionals for specified investment-related services or to licensed real-estate brokers and salespeople.

Finally, the bill imposes civil penalties for violating the third-party and finder's fee provisions and allows the attorney general, quasi-public agencies, and political subdivisions to sue to recover them. It requires the penalties to be paid back to the affected funds. It also requires fines and damages paid for ethics and election law violations related to the treasurer's office to be paid into the affected state trust funds.

House Amendment "A":

1. prohibits the state treasurer, for one year after her term ends, from negotiating for, seeking, or accepting a job with any party to an investment services contract valued at \$50,000 or more that she authorized, negotiated, or renegotiated;
2. prohibits the treasurer, candidates for treasurer, and members of the Investment Advisory Council (IAC) from soliciting campaign contributions from certain owners and employees of investment services firms that the treasurer pays or issues contracts to;
3. prohibits the IAC's 10 public and union members (the "appointed

members") from making campaign contributions to, or soliciting them for, any candidate for treasurer;

4. subjects the appointed IAC members to the State Ethics Code and requires all IAC members to file annual financial disclosure statements with the Ethics Commission;
5. changes the name of the proposed pension fund investment officer to chief investment officer for the Connecticut retirement, pension, and trust funds;
6. eliminates requirements that the chief investment officer report quarterly directly to the IAC and manage and make public investment information;
7. exempts compensation paid to licensed real estate brokers and salespeople from the finder's fee ban;
8. requires the treasurer to begin investing funds according to the investment policy statement, and the IAC to start reviewing contracts for investment-related services, as of January 1, 2001 or the adoption of the investment policy statement, whichever is later;
9. eliminates a requirement that the policy statement describe the role of the investment department staff and include policies for managing information for the IAC and making it public;
10. requires a majority of the IAC's appointed members to approve the investment policy statement;
11. requires them to give the treasurer their reasons if they fail to approve it;
12. allows the treasurer in such a case to submit a revised statement at a later regular or special IAC meeting;
13. requires the treasurer to give the IAC any investment information it may request;
14. requires the treasurer to report to the IAC at each regular meeting on the status of trust funds and significant changes that have taken place or may be pending;

15. eliminates the IAC's existing duty to advise and consent to the treasurer's appointment of investment department personnel;
16. applies the bill's lame-duck restrictions to appointed treasurers approved by the General Assembly to fill vacancies in the office;
17. extends the finder's fee ban to quasi-public agency investment transactions;
18. changes the fine for violating the finder's fee ban from up to \$10,000 to a minimum of the amount of the fee and a maximum of three times the fee;
19. allows, rather than requires, the attorney general to sue to recover penalties for violations involving state trust funds;
20. allows quasi-public agencies and political subdivisions to sue to recover penalties for violations involving funds under their control;
21. requires penalties for violating the third-party disclosure requirements and the finder's fee ban to be paid into the affected state trust fund or fund under the control of a political subdivision or quasi-public agency; and
22. eliminates redundant provisions and makes technical and clarifying changes.

EFFECTIVE DATE: Upon passage, except the provisions eliminating the 55% limit on equity investments and requiring the treasurer to invest trust funds according to the investment policy are effective January 1, 2001.

SOLICITING CAMPAIGN CONTRIBUTIONS

The bill prohibits the treasurer, candidates for treasurer, and IAC members from soliciting campaign contributions from certain people associated with investment services firms that she pays compensation, expenses, or fees or issues a contract. The people affected are firm owners, managers, officers, directors, partners, and employees with managerial or discretionary responsibility to invest, manage funds, or

provide investment services for brokerage, underwriting, and financial advisory activities in the treasurer's statutory and constitutional purview.

INVESTMENT POLICY STATEMENT

The bill requires the treasurer to recommend to the IAC an investment policy statement that sets standards for investing state trust funds. It eliminates a restriction that generally bars her from investing more than 55% of trust funds in common stock and instead requires her, either on or after January 1, 2001 or after the statement is first adopted, whichever is later, to invest funds according to the policy statement.

Contents

For each trust fund, the policy statement must include at least:

1. investment objectives;
2. asset allocation policies and risk tolerance;
3. definitions of classes of assets, including types of permissible investments within each class and any limits or other considerations governing fund investments;
4. guidelines for investment managers and for evaluating investment performance;
5. guidelines for selecting and terminating investment advisors, external money managers, investment consultants, custodians, broker-dealers, lawyers, and other similar investment industry personnel who provide investment-related services; and
6. guidelines for proxy voting.

Approval Process

The treasurer must submit a draft statement to the IAC at a council meeting and make it public. She must publish notice of the statement's public availability in at least one newspaper that circulates generally in each municipality at least two weeks before she submits it at the IAC meeting.

The IAC must review the draft statement and publicize any recommended changes in the same way. The treasurer must, with the approval of a majority of the IAC's appointed members, adopt the statement with any of the IAC's changes she considers appropriate. (The appointed IAC members are the 10 members representing the public and the teacher and state employee unions.) If a majority fails to approve the changes, they must give the treasurer their reasons. The treasurer may submit a revised proposal at a later regular or special meeting. The revised proposal must be made public under the Freedom of Information Act.

If the treasurer revises or adds to the statement after it is adopted, she must follow the same procedure. She must review the statement every year and consult the IAC about possible revisions.

INVESTMENT ADVISORY COUNCIL

Investment Oversight

The bill:

1. eliminates the IAC's authority to review the treasurer's civil list fund investments, thus leaving it with oversight of trust fund investments only;
2. requires the treasurer to give the council any information she considers relevant to its review and any information the council requests; and
3. requires the council to notify the auditors of public accounts and the comptroller promptly if it knows of any actual or contemplated trust fund handling or spending that is unauthorized, illegal, irregular, or unsafe, or that constitutes a breakdown in safekeeping.

The treasurer must report to the council at each regular meeting on the status of trust funds and significant changes that have taken place or may be pending.

In conformity with the requirement for an investment policy statement, the bill eliminates the IAC's current responsibility to recommend investment policies to the treasurer. It also eliminates the

council's duty to advise and consent to the treasurer's appointments of investment department personnel.

Review of Contracts for Investment-Related Services

Starting on January 1, 2001 or after first approval of the investment policy statement, whichever is later, the bill bars the treasurer from awarding a contract for trust fund investment-related services until the IAC has reviewed her recommendation. The treasurer must notify the council of her recommendation at a council meeting. The IAC then has 45 days to file a written review of the treasurer's selection with the treasurer's office. The review must be available for public inspection. The treasurer may proceed with the contract at the end of the 45-day review period.

Oversight of Lane-Duck and Acting Treasurers

The bill requires the treasurer, the deputy treasurer, or any acting treasurer to get the IAC's approval for any private equity or real estate investment between any of the following events and the end of her term of office:

1. defeat for nomination as treasurer at a convention, in a primary vote, or primary recount, whichever is later;
2. defeat in a general election for the Office of Treasurer or in a general election recount; or
3. resignation.

CHIEF INVESTMENT OFFICER

The bill eliminates the job of assistant treasurer for investments and substitutes a chief investment officer for the Connecticut retirement, pension, and trust funds. As is the case with the assistant treasurer, the treasurer appoints this officer with the IAC's advice and consent. The bill gives the treasurer authority to set the officer's compensation within a range she establishes in consultation with the IAC. It exempts the officer's compensation from the requirement that salaries of executive branch employees that are not set by law be determined by the commissioner of administrative services and approved by the Office of Policy and Management (OPM) secretary.

The chief investment officer's duties are the same as the assistant treasurer's, namely to advise the treasurer on investments (limited to trust fund investments under the bill) and perform other duties as the treasurer directs.

FILLING VACANCIES IN THE OFFICE OF TREASURER

The bill eliminates the governor's power to appoint someone as treasurer to fill the entire unexpired term if the office becomes vacant when the General Assembly is not in session. Instead, if the vacancy occurs when the General Assembly is not in session or if the General Assembly fails to make an appointment and it is not a year when a regular election for treasurer is to be held, the governor must appoint an acting treasurer. The acting treasurer must serve until the next regular General Assembly session. At that time, the governor must nominate a successor as treasurer and that person must be approved by the General Assembly. If the vacancy occurs when the General Assembly is not in session or if it fails to make an appointment and it is a year when a regular election for treasurer is to be held, the deputy treasurer must fill out the unexpired part of the term.

THIRD-PARTY FEES

Disclosure Requirements

Before the treasurer or any quasi-public agency contracts for legal, investment banking, investment advisory, underwriting, financial advisory, or brokerage firm services, the bill requires the parties to the contract to disclose to the treasurer or agency all third-party fees attributable to the contract.

The parties must disclose the fees in sworn affidavits in a form the treasurer requires in regulations or the agency requires in procedures each must adopt within three months of the bill's effective date. The treasurer must make the information available to the public in accordance with the Freedom of Information Act.

Under the bill, third-party fees include management, placement agent, solicitation, referral, promotion, introduction, matchmaker, and due diligence fees.

Ban On Directed Third-Party Fees

The bill bars the treasurer from directing payment of third-party fees to anyone, except for third-party fees paid in connection with state bond sales and fees permitted by federal tax law in connection with guaranteed investment contracts related to issuing debt. It bars the treasurer and her agents and employees from making personal use of any credit or item of value given by a broker or firm in connection with trust fund investments.

FINDER'S FEE BAN

The bill bars anyone from paying or receiving a direct or indirect finder's fee in connection with any investment transaction involving the state, a quasi-public agency, or a political subdivision.

Covered Fees

The bill defines a "finder's fee" as any compensation in cash, cash equivalents, or anything of value paid or received for any services in connection with an investment transaction to which the state, a quasi-public agency, or a political subdivision is a party. The bill specifies that finder's fees include fees paid for lobbying.

Excluded Fees

The ban does not apply to (1) compensation for legal, investment banking, investment advisory, underwriting, financial advisory, or brokerage firm services; (2) compensation by a licensed real estate broker or salesperson; (3) marketing or due diligence fees, which the treasurer must define in regulations, earned in connection with the offer, sale, or purchase of a security or investment interest; or (4) fees paid to investment professionals engaged in the ongoing business of representing investment managers.

"Investment professionals" are people or firms whose primary business is bringing together institutional funds and investment opportunities. They must (1) be registered or licensed as broker-dealers or investment advisors under Connecticut law or under federal law with the Securities and Exchange Commission or the National Association of Securities Dealers; (2) furnish an investment manager with marketing services and have (a) had contacts about potential

investments with more than 10 institutional funds in the preceding 12 months or (b) been involved in more than one transaction in the same period; or (3) be licensed as real estate brokers or sales people.

“Marketing services” include developing an overall marketing strategy focused on several institutional funds, designing or publishing marketing brochures or other presentation material like logos and brands for investment products, responding to requests for proposals, completing due diligence questionnaires, identifying potential investors, and providing other services the treasurer specifies in regulations she must adopt.

PENALTIES

The bill imposes a civil penalty of up to \$2,000 for each violation of its third-party fees disclosure requirements. For violating the finder’s fee ban, the minimum fine is the amount of the fee paid or received and the maximum fine is triple that amount.

Upon the treasurer’s complaint, the bill allows the attorney general to sue in the Hartford Superior Court to recover penalties for any violation of the third-party disclosure requirements or finder’s fee ban that affects a trust fund. It allows a political subdivision or quasi-public agency to sue to recover penalties for violations involving funds under their control.

PAYMENT OF CERTAIN PENALTIES TO AFFECTED FUNDS

The bill requires penalties for violating its third-party disclosure requires and finder’s fee ban to be paid into the affected state trust fund or fund under the control of a political subdivision or quasi-public agency.

The bill requires any fines, penalties, or damages the State Ethics Commission collects for ethics code violations by public officials in the treasurer’s office or by lobbyists that apply to the treasurer’s office to be deposited in affected trust funds on a pro rata basis.

It also requires any civil penalties or fines paid to the State Elections Enforcement Commission for violations of campaign financing laws

that apply to the treasurer to be deposited in any affected trust funds on a pro rata basis.

AUDITORS OF PUBLIC ACCOUNTS

The bill expressly requires the auditors of public accounts and the comptroller, when they conduct required annual audits of the treasurer's books and accounts, to examine those of the trust funds. It allows the auditors to hire independent auditors to help them audit the treasurer's office and the funds.

BACKGROUND

Trust and Civil List Funds

Trust funds include the Municipal Employees Retirement Funds; Soldiers, Sailors' and Marines Fund; State's Attorney Retirement Fund; Teachers' Annuity Fund; Teacher's Pension Fund; Teachers' Survivorship and Dependency Fund; School Fund; State Employees' Retirement Fund; the Hospital Insurance Fund; and any other trust funds.

Civil list funds contain the proceeds of state general obligation bond sales before they are disbursed.

Investment Advisory Council

The council has 14 members. Five are public members, one each appointed by the governor and legislative leaders, three represent teachers' unions, and two represent state employee unions. The treasurer and the OPM secretary are ex officio members.

Quasi-Public Agencies

The quasi-public agencies are the Connecticut Development Authority, Connecticut Innovations, Inc., Connecticut Health and Educational Facilities Authority, Connecticut Higher Education Supplemental Loan Authority, Connecticut Housing Finance Authority, Connecticut Housing Authority, Connecticut Resources Recovery Authority, Connecticut Hazardous Waste Management Service, Connecticut Coastline Port Authority, Capital City Economic Development Authority, and Connecticut Lottery Corporation.

Related Bill

sHB 5595, reported favorably by the Government Administration and Elections, contains similar provisions concerning campaign contribution solicitations by the treasurer and the prohibition against accepting employment after leaving office.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 34 Nay 4